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Thirty-eighth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Ninth periodic reports of States parties due in 1989

Addendum

NETHERLANDS */

[16 July 1990]

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*/ The present document contains a supplement to the eighth and ninth periodic reports of the Netherlands reproduced in CERD/C/158/Add.9 and CERD/C/184/Add.4 respectively and concerns the Netherlands Antilles.

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INTRODUCTION

1. The present report covers the period 1984-1988 and should be read in conjunction with previous periodic reports, in particular CERD/C/158/Add.9 and CERD/C/184/Add.4 which together cover the Netherlands and make up part A of the ninth periodic report. This report, dealing with the Netherlands Antilles, is part B of the periodic report. Part C, dealing with Aruba, will be submitted in due course.

2. The Government of the Netherlands Antilles has taken careful note of the revised general guidelines laid down by the Committee in 1981 and 1982 (CERD/C/70/Rev.1). After careful reading, the questions arising from consideration of the seventh periodic report of December 1985 have also been answered. Both the questions and the concise report relate to the period which was intended to be covered by the seventh, eighth and ninth reports.

3. In previous reports and again in the present report, it has been emphasized that the Netherlands Antilles have always constituted a melting pot of different races and cultures, as is evident from, inter alia, the creole language of the islands, Papiamento. Conflicts such as those which are covered by the scope of the Convention do not occur in the Netherlands Antilles as they do in societies which do not have the cultural characteristics described above.

4. To date, the Government of the Netherlands Antilles has not considered it necessary to pursue a structured policy to combat and eliminate racial discrimination because of the considerable experience which the islands have of a multiracial society which is marked by a high degree of racial mixing and tolerance. Nevertheless, the Government of the Netherlands Antilles would, should the occasion arise, ensure that any amendment of existing legislation and/or introduction of new measures was in accordance with existing international obligations (in this case the Convention).

PART B - THE NETHERLANDS ANTILLES

I. GENERAL

5. For information on the constitutional composition of the Kingdom of the Netherlands and the relationship between the Netherlands Antilles and the Netherlands, reference should be made to previous reports to the United Nations in the framework of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

6. The Netherlands Antilles comprise five islands over which the population is distributed as shown below:

Bonaire	10,582
Curaçao	148,579
Saba	1,133
St. Eustatius	1,889
St. Maarten	26,994

Population of the Netherlands Antilles by nationality and sex
(as of 1 February 1981)

Nationality		Female	Male
Dutch	216 698	111 533	105 165
American (US)	1 189	608	581
Venezuelan	983	461	522
British	4 347	2 519	1 828
Portuguese	2 094	1 004	1 090
Other	6 620	3 659	2 961
Total	231 931	119 784	112 147

Population of the Netherlands Antilles by sex and country of birth
(as of 1 February 1981)

Country of birth		Female	Male
Netherlands Antilles	204 107	104 065	100 042
Suriname	2 166	1 000	1 166
Colombia	1 654	1 116	538
Dominican Republic	2 810	2 120	690
The Netherlands	6 619	3 172	3 447
Other	14 576	8 311	6 265
Total	231 931	119 784	112 147

It should again be noted that Antillean society includes a great diversity of races and cultural groups who live in harmony with one another; there is little if any opportunity for racial discrimination.

7. The previous periodic report (CERD/C/131/Add.10) stated that the language of instruction in Antillean schools was Dutch. As the islands of Bonaire and Curaçao primarily use Papiamento, the Government has decided to introduce the latter as a subject in addition to Dutch at primary schools. Primary schools are thus now obliged to teach Papiamento for at least 150 minutes each week throughout the school year. A scheme is currently being prepared to introduce Papiamento in secondary schools.

8. In the Netherlands Antilles, children learn to read and write almost exclusively at school, where Dutch (a foreign language for most pupils) is the language of instruction. This means that the educational statistics given in the previous report (CERD/C/131/Add.10, para. 11) give an indication of literacy in Dutch. Statistics on illiteracy in the Netherlands Antilles cannot therefore be regarded as ideal, but it is possible to estimate the level of illiteracy on the basis of census data on levels of education attained and school attendance. These statistics have not been changed since the previous report and thus remain the same.

READEX FICHE

II. INFORMATION IN RELATION TO ARTICLES 2 TO 7 OF THE CONVENTION

9. The previous periodic report pointed out that people who feel they have been discriminated against may have recourse to the legal remedies laid down in articles 8 and 12 of the current Netherlands Antilles Code of Criminal Procedure (CERD/C/131/Add.10, para. 20). A new draft Code of Criminal Procedure is now being debated by the Antillean parliament. The draft (art. 196 in conjunction with article 182 ff.) provides for any person to lay an information concerning racial discrimination with the competent authorities. It also provides for any interested party to lodge a complaint.

10. Given the local situation as described in the introduction, there has been no change as regards the other articles as far as the Netherlands Antilles is concerned.

III. ANSWERS TO QUESTIONS PUT BY THE COMMITTEE IN RESPONSE TO THE SEVENTH CERD PERIODIC REPORT

A. Introduction

11. The seventh periodic report was a report by the Kingdom of the Netherlands concerning the Netherlands Antilles. It was published in document CERD/C/131/Add.10 dated 14 July 1986. It covered the period from the end of 1983 to the end of 1984 and was considered in Geneva on 11 March 1987 by the Committee on the Elimination of Racial Discrimination. The answers provided here are in the first instance replies to questions posed by the CERD Committee after consideration of the said report. For the record, it should be noted that the answers relate to a period which began with Aruba forming part of the Netherlands Antilles and ended with it having acquired separate status on 1 January 1986.

B. Answers to questions

1. Reply to questions posed by Mr. De Pierola y Balta whether the legal personality of the Kingdom is linked to the Kingdom as a whole or to the metropolitan part of the Kingdom

12. Under international law it is the Kingdom as a whole that has legal personality. Article 28 of the Charter of the Kingdom of the Netherlands (Netherlands Bulletin of Acts, Orders and Decrees 1954, No. 503) as amended by the Kingdom Acts of 22 November 1975 (Bulletin of Acts, Orders and Decrees No. 617; Official Bulletin of the Netherlands Antilles No. 233), of 11 January 1985 (Bulletin of Acts, Orders and Decrees No. 148; Official Bulletin of the Netherlands Antilles No. 95) and 22 July 1985 (Bulletin of Acts, Orders and Decrees No. 452; Official Bulletin of the Netherlands Antilles No. 102; Official Bulletin of Aruba No. 35) further stipulates that under international agreements entered into by the Kingdom the component parts of the Kingdom (the Netherlands, the Netherlands Antilles and Aruba) may, if they wish, accede to membership of international organizations. It is always the Kingdom as such which is party to international agreements, though it is possible for the validity of such agreements to be limited to one of the Kingdom's component parts.

2. Reply to the question posed by Mr. Karasimeonov whether the Kingdom is a federation consisting of three parts or whether there is a difference in status between the different units

13. The Charter of the Kingdom of the Netherlands is a constitutional co-operative arrangement between three autonomous countries, on a basis of equality. The Government of the Kingdom takes decisions only on matters listed in the Charter as being "affairs of the Kingdom".

3. Reply to the question posed by Mr. Karasimeonov on the implications of the status of Aruba

14. According to the Charter of the Kingdom as it now stands, Aruba will remain an autonomous country within the Kingdom until 1996. This means that relations with Aruba are primarily determined by the provisions of the Charter of the Kingdom of the Netherlands. Under article 38 of the Charter, the Netherlands Antilles and Aruba co-operate in many areas, these being laid down in regulations governing co-operation between the Netherlands Antilles and Aruba (Official Bulletin of the Netherlands Antilles 1985, No. 88). The most important provisions of the regulations are as follows:

(a) The establishment of the Ministerial Co-operation Council of the Netherlands Antilles and Aruba (chapter III of the regulations; Official Bulletin of the Netherlands Antilles 1985, No. 88);

(b) The establishment of the Joint Court of Justice of the Netherland Antilles and Aruba (chap. VIII of the regulations; Official Bulletin of the Netherlands Antilles 1985, No. 88);

(c) The listing of statutory provisions which may be established or amended only with the agreement of the Parliaments of both countries (chap. IV) of the regulations; Official Bulletin of the Netherlands Antilles 1985, No. 88);

4. Reply to the question posed by Mr. De Pierola y Balta requesting a more detailed breakdown of the demographic data per island

15. The Netherlands Antilles now comprise five island territories, the indigenous population of which can be derived from 1981 census data (the Antilles then comprised six island territories) to produce the following table:

Bonaire	8,753
Curaçao	147,388
St. Maarten	13,156
St. Eustatius	1,358
Saba	965
Netherlands Antilles	171 620

5. Reply to the question posed by Mr. Karasimeonov on the number of people from the Netherlands who are living in the Netherlands Antilles

16. The following table concerns the sub-classification of Netherlands nationals who were born in the Kingdom in Europe, but are resident in the Netherlands Antilles and in Aruba. No distinction is made according to race in the Netherlands Antilles. Possessors of different nationalities among the population of the Antilles are indicated only for statistical purposes. The distribution of Netherlands nationals born in the Netherlands who are resident in the Netherlands Antilles and in Aruba is as follows:

Aruba	678
Bonaire	96
Curaçao	2,203
St. Eustatius	15
St. Maarten	176
Saba	4
Total for the Antilles Island territories	3 172

6. Reply to the question posed by Mr. Karasimeonov on the social classes in which the Antillean population could be divided

17. The Antillean population cannot be divided into social classes. The various ethnic groups are integrated throughout the population. There are no cultural patterns among the various groups which are evident in dance, song, folklore, religion or other manifestations of culture such that they can be ascribed to separate classes within society.

7. Reply to the question posed by Mr. Song Shuhua whether the unemployment percentage mentioned in paragraph 12 of the seventh report (CERD/C/131/Add.10) can be divided in percentages per different ethnic group and whether any measures are being taken to solve the unemployment problem

18. The answer to the first part of the question is negative. As to the measures envisaged by the Government to alleviate the unemployment problem, the most important are (a) improvements in the investment climate so as to help attract new industries, and (b) retraining programmes to be co-operated by an organization set up specifically for that purpose.

8. Reply to the question posed by Mr. Karasimeonov on the position of white and other immigrants in the administration and economy of the Netherlands Antilles

19. In the Netherlands Antilles, administrative discrimination on the grounds of race or country of origin is prohibited by law; nor does such discrimination occur in practice. The answer to the second part of this question, which relates to the position of immigrants in the economy, can therefore be taken as given in conjunction with the answer to question 9 below.

9. Reply to the question posed by Mr. Yutzis on the role of the different population groups in the economy

20. Traditionally, different population groups have been active in different sectors of the economy. For example, people of Jewish and Arab origin have always been extremely active in trade. In recent years, Asian Indians have become increasingly active in that sector too. Until the end of the 1970s, Dutch nationals of European origin were employed to work in more highly skilled areas in government, industry and education. Largely as the result of an active scholarships policy, the indigenous population (and the descentants of other immigrants such the Portuguese, Jews, Chinese, etc.) has now penetrated further into the higher echelons of the government and education. The same trend can be seen in industry and in the professions. Although it may have been possible in the past to classify population groups in economic terms, there is today greater diversification, partly as a result of better educational opportunities and more government funding.

10. Reply to the question posed by Mr. Karasimeonov on the number of international and multinational companies in the Netherlands Antilles

21. International and multinational companies are present in various sectors in the Netherlands Antilles. The off-shore sector is particularly highly developed, especially on Caraçao. Various foreign companies and institutions are registered as off-shore companies. A number of international banks have local branches and others participate in locally established banks. The industrial situation can be described as follows:

(a) The refinery on Curaçao is run by Petroleos de Venezuela SA, the Venezuelan state oil company;

(b) On Bonaire, the Dutch company AKZO (Algemene Kunstzijde Zout Orgaan) owns the salt export company;

(c) Curaçao has a well-developed industrial sector producing goods for the local market. Given the size of the market, it is mainly a question of small-scale industries, largely the result of local investment;

(d) Various international products such as Pepsi Cola, Coca Cola and Unilever products are manufactured under licence. Branches of McDonalds, Kentucky Fried Chicken, Baskin and Robbins and Pizza Hut are also to be found;

(e) A number of companies are owned by foreigners (e.g. Continental Milling Factory, Meelfabriek (another mill), the Amstel Brewery) and there are a number of joint ventures (a fruit juice plant and a paint factory for example);

(f) A number of hotel chains have hotels in the island, notably on St. Maarten;

(g) There are many Dutch construction companies working in the Netherlands Antilles.

As can be seen from this list, there are various international and a number of multinational companies in the Antilles.

11. Reply to the question posed by Mr. Yutzis on (a) racial harmony, (b) economic discrimination and (c) the existence of racist organizations or pamphlets

22. (a) Antillean society has traditionally been characterized by its diversity as regards race and culture. The various ethnic groups are integrated throughout society and there is a high degree of tolerance towards the various cultures and cultural activities. Racial harmony exists both officially and in practice.

(b) Although it may have been possible in the past to classify population groups in economic terms, educational facilities and government funding have now improved (the latter for example extending to the development of private initiatives) and no policy is pursued which might be described as economically discriminating.

(c) No.

12. Reply to the question posed by Mr. De Pierola y Balta whether an explanation could be given on the percentage of illiterates which is mentioned in paragraph 11 of the Seventh Report (CERD/C/131/Add.10)

23. There are still not very reliable statistics on illiteracy in the Netherlands Antilles. However, census data on educational levels attained and school attendance can be used to estimate the illiteracy rate. Definitions of illiteracy do not take language into account. People may, however, be literate in one or more national languages and/or one or more foreign languages. As people in the Netherlands Antilles learn to read and write almost exclusively at school, where Dutch (a foreign language to the majority of pupils, more than 90 per cent of whom do not speak it at home) is the language of instruction, education figures give some indication of the degree of literacy in Dutch. The national language, Papiamento, has been a school subject for a short time only. The 1981 census figures can thus indicate only the rate of illiteracy among the population in terms of their literacy in Dutch as a language of educational instruction. The stated percentage of illiteracy includes those people who at the time of the census had had no education and those whose level of education was not known. It can therefore be regarded as a maximum.

13. Reply to the question posed by Mr. Yutzis on the meaning of the phrase "other than for purposes of factual reporting" in article 143e of the Netherlands Antilles Criminal Code

24. Article 137e of the Dutch Criminal Code, which corresponds to article 143e of the Antillean Criminal Code, contains a phrase identical to that mentioned above. In explaining the meaning of the phrase, the Dutch interpretation of article 137e can be adhered to. The phrase is included in order not to restrict the freedom of information unnecessarily. If it were not included, it would be possible that the publication of information revealing the existence of racial discrimination by quoting from publications inciting such discrimination could be hindered. It is therefore possible that certain groups might occasionally be offended by the contents of factual reporting. The question of what exactly constitutes "factual" reporting must be decided by the courts, having regard to the tenor of any such reporting.

The ruling by the Netherlands Supreme Court of 12 April 1983 (Dutch Law Reports 1983, No. 571) is of relevance here: that ruling determined that it can generally be assumed that insulting racial texts are not disseminated for the purpose of factual reporting; in other words, a suspect must prove that factual reporting was intended. In a ruling of 26 June 1984 (Dutch Law Reports 1985, No. 40), the Supreme Court also determined that it can be deduced from the tenor of a piece of information that factual reporting was not the writer's intention. In other words, unless the suspect can convincingly refute the allegation, it can be assumed that the intention of racialist publications is not factual reporting. As article 1 of the Cassation Regulations for the Netherlands Antilles (Bulletin of Acts, Orders and Decrees No. 546; Official Bulletin of the Netherlands Antilles 1964, No. 162) stipulates that civil and criminal cases in the Netherlands Antilles should be judged in the same way and with the same legal consequences as civil and criminal cases in the Netherlands, the above-mentioned interpretations of the Supreme Court of the phrase in question also apply in the Netherlands Antilles.

14. Reply to the question posed by Mrs. Sadiq Ali on the measures taken by the Government of the Netherlands Antilles to promote understanding, tolerance and friendship in its mixed society and thus applying article 7 of the Convention

25. The Government has taken no special measures, in education for example, to promote tolerance and friendship in the mixed society of the Netherlands Antilles. No specific policy is necessary in this regard as tolerance and friendship are already features of Antillian society.